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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,334	06/19/2001	Yoshimi Tochishita	991074B	3027

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ARMSTRONG, WESTERMAN & HATTORI, LLP  
1725 K STREET, NW  
SUITE 1000  
WASHINGTON, DC 20006

EXAMINER

MEEKS, TIMOTHY HOWARD

ART UNIT PAPER NUMBER

1762

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/883,334

Applicant(s)

TOCHISHITA ET AL.

Examiner

Timothy H. Meeks

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/21/03.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 46-52 is/are pending in the application.
- 4a) Of the above claim(s) 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 46-52 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Application Status***

The amendment filed on 21 July 2003 in response to the Office Action mailed on 26 February 2003 has been fully considered. In the amendment applicants have amended claims 47, 49, and 51. Claims 46-52 are pending.

### ***Election/Restrictions***

Applicant's election of Claims 47-52 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 46 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 47, 49, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Radford et al. (4,650,462).

Radford discloses sputtering (a type of physical vapor deposition process) a coating on nuclear fuel pellets while the pellets are rotated in a cage structure having an upper cage and

Art Unit: 1762

lower cage with compartments and which is openable and closable in a lengthwise direction (abstract, figures 6 and 7, col. 3, lines 5-28).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 48, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radford et al. in view of Funke (4,158,681).

Radford discloses sputtering (a type of physical vapor deposition process) a coating on nuclear fuel pellets while the pellets are rotated in a cage structure having an upper cage and lower cage with compartments and which is openable and closable in a lengthwise direction (abstract, figures 6 and 7, col. 3, lines 5-28).

Radford does not explicitly disclose that the pellets are sintered.

However, because Funke discloses that the conventional pellet forming process involves a sintering step to form a stable pellet (col. 1, lines 15-39), it would have been obvious to form the pellets for coating by the conventional pellet-forming process so as to provide stable pellets.

***Response to Arguments***

Applicant's arguments filed in Paper 8 have been fully considered but they are not persuasive.

Art Unit: 1762

Applicants argue that Radford does not disclose rotating the works about their axes but rather around the axis of the drum. However, Radford discloses at col. 4, lines 21-68 that the size of the sides (46) of pallet (16) are controlled to allow side-to-side rolling of the fuel pellets as the drum rotates. This constitutes rotation about the axes of the fuel pellets. Applicants argue that Radford places the works end to end to prevent coating the ends of the pellets whereas claim 49 requires that "each work be accommodated in a compartment in a manner where each work is spaced apart from one another". First, it is noted that such accommodation is not required by the claim, only the ability to provide such accommodation. As shown in figures 6 and 7 of Radford, the pallets are compartmentalized by walls and hence possess the capability of such accommodating. Furthermore, although Radford teaches desirability for end to end contact, the opposite is suggested for the sides of the pellets by teaching desirability for rolling as cited above. This rolling in the cage, furthermore, would require at least some of the parts be spaced apart side to side for the rolling to occur because all of the pellets maintaining side to side contact during the processing would prevent the desired side to side rolling.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

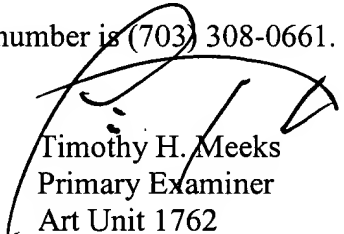
Art Unit: 1762

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy H. Meeks whose telephone number is (703) 308-3816. The examiner can normally be reached on Mon., Tues., Thurs.(6-6:30), Fri.(6:30-10:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Timothy H. Meeks  
Primary Examiner  
Art Unit 1762

September 8, 2003